

APPEAL NO. 041581
FILED AUGUST 19, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 3, 2004. The hearing officer determined that the date of injury (DOI) pursuant to Section 408.007 was _____; that the appellant (claimant) had not sustained a compensable repetitive trauma injury; that the respondent (self-insured referred to as the carrier herein) is relieved from liability because the claimant failed to timely notify her employer of her injury and did not have good cause for failing to do so; and that because the claimant did not have a compensable injury, the claimant does not have disability.

The claimant appeals on sufficiency of the evidence grounds, citing evidence she believes supports her position. The carrier responds, urging affirmance.

DECISION

Affirmed.

The hearing officer's determinations on the DOI, repetitive trauma injury, timely notice of injury (and lack of good cause) and disability are supported by the evidence. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). Section 408.007 provides that the DOI for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 409.001(a) provides that, if the injury is an occupational disease, an employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which the employee knew or should have known that the injury may be related to the employment. Section 401.011(16) defines "disability" as the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. Conflicting evidence was presented on the issues of occupational disease injury, DOI, timely notice to the employer, and disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer's determinations on the issues of occupational disease injury, DOI, timely notice to the employer, and disability are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**MAYOR
(ADDRESS)
(CITY), TEXAS (ZIP CODE)**

Thomas A. Knapp
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge